

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

GILBERT D. ISOM,

Plaintiff,

v.

CIVIL ACTION NO. 1:07-00212

MCDOWELL COUNTY CORRECTIONS
MEDICAL SERVICES, et al.,

Defendants.

MEMORANDUM OPINION

Pending before the court is the plaintiff's application to proceed without prepayment of fees. (Doc. No. 3.) By Standing Order entered on August 1, 2006, and filed in this case on April 2, 2007, this matter was referred to United States Magistrate Judge R. Clarke VanDervort. (Doc. No. 6.) Pursuant to 28 U.S.C. § 636(b)(1)(B), the Standing Order directs Magistrate Judge VanDervort to submit proposed findings and recommendations concerning the disposition of this matter. Magistrate Judge VanDervort submitted his Proposed Finding and Recommendation ("PF & R") on December 20, 2008, recommending that this court (1) confirm and accept the factual and legal analysis contained therein; (2) deny plaintiff's application to proceed without prepayment of fees and costs; (3) dismiss plaintiff's Complaint; and (4) direct the Clerk to remove this matter from the court's docket. (Doc. No. 16.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's PF & R. Under § 636(b), the failure of any party to file objections within the appropriate time frame constitutes a waiver of that party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985). The plaintiff filed a motion for extension of time to file objections two days past the objection filing deadline. (Doc. No. 18.) The court granted the motion and allowed the plaintiff an extra twenty-one days to file his objections the PF & R. (Doc. No. 19.) The plaintiff then timely filed his objections on January 31, 2008. (Doc. No. 20.)

This court need not conduct a *de novo* review when a party "makes general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations." Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). In the instant case, the plaintiff's objections focused exclusively on the fact that he is a pro se plaintiff with no legal and little general education. (Doc. No. 20.) The plaintiff did not state why he thought the PF & R was incorrect and did not provide any argument in support of the assertions contained in his Complaint and Application to Proceed Without Prepayment of Fees and Costs. (Id.) The court must therefore

overrule the plaintiff's objections pursuant to Orpiano, 687 F.2d at 47, as they are wholly unresponsive to the PF & R.

Having reviewed the PF & R filed by Magistrate Judge VanDervort, the court (1) **CONFIRMS** and **ACCEPTS** the factual and legal analysis within the magistrate judge's PF & R (Doc. No. 16); (2) **DENIES** plaintiff's application to proceed without prepayment of fees and costs (Doc. No. 3); and (3) **DISMISSES** plaintiff's Complaint (Doc. No. 1).

The Clerk is directed to remove this action from the active docket of this court. The Clerk is further directed to forward a copy of this Memorandum Opinion to plaintiff, pro se, and to all counsel of record.

It is **SO ORDERED** this 11th day of July, 2008.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber
United States District Judge